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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,282	07/14/2003	James D. Pylant	067810/0303800 PI-015	7725
7590 12/01/2005			EXAMINER	
Isabelle McAndrews Peak International 38507 Cherry Street Unit G Newark, CA 94560-4743			LAVINDER, JACK W	
			ART UNIT	PAPER NUMBER
			3677	
DATE MAILED: 12/01/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/620,282

Applicant(s)

PYLANT ET AL.

Examiner

Jack W. Lavinder

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 16-22, 24, 25, 27-30, 32 and 33 is/are pending in the application.
- 4a) Of the above claim(s) 5-7, 12, 13, 20-22, 24, 25 and 27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8-11, 16-19, 28-30, 32 and 33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 5-7, 12, 13, 20-22, 24, 25 and 27 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 10/06/05.
2. Applicant's election with traverse of species 1 in the reply filed on 10/06/05 is acknowledged. The traversal is on the ground(s) that all the independent claims are generic and that the claims were all previously examined. Therefore, there is no burden on the examiner. This is not found persuasive because the claims were previously examined by a different examiner that possibly did not search in all the proper places for all of the claimed species. For this reason, there is a considerable burden on the examiner to search all of the claimed species.

The requirement is still deemed proper and is therefore made FINAL.

3. In response to applicant's request for the examiner to indicate which claims are generic, the following is a breakdown of the species and the claims that read on the species.

The following claims are considered to be generic or read on the elected species: claims 1-4, 8-11, 16-19, 28-30, 32 and 33.

Claims 5, 7, 12 and 31 is not generic nor does it read on the elected species. Elected species 1 does not include two pressure members located on a longitudinal axis orthogonal to a wall of the channel structure.

Claims 6 and 13 are not generic nor does it read on the elected species. Elected species 1 clamps the stack between the restraining means and the two pressure members.

Claim 20 is not generic nor does it read on the elected species. Elected species 1 does not disclose a first pressure means located on the base in a position opposite the first protrusion nor does it disclose a second pressure means located on the base in a position opposite the second protrusion.

Claims 21 and 22 are not generic nor does it read on the elected species. Elected species 1 clamps the stack between the restraining means and the two pressure members located on the base.

Claims 24 and 25 are not generic nor does it read on the elected species. Elected species 1 does not provide for an additional means to apply pressure to a non-perimeter area.

Claim 27 is not generic nor does it read on the elected species. Elected species 1 does not include additional flexible retainers attached to the base.

The current election of species 1 with the indication that claims 1-6, 8 -11, 14-23, 28-30, 32, and 33 read on species 1 was partially correct. For the reasons outlined above, claims 1-4, 8-11, 16-19, 28-30, 32 and 33 have been considered to read on the elected species.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4, 16-19, 28-30, 32 and 33 have been rejected under 35 U.S.C. 102(b) as being anticipated by Applicant's Admitted Prior Art (AAPA, see figure 4).

Regarding claims 1-4, 16-19, 28-30, and 32, AAPA discloses an apparatus capable of clamping together a stack comprising

- a base forming a bottom of a channel, the channel allowing for the insertion and removal of a stack
- first and second restraining segments attached to the base, wherein each segment includes a protrusion extending parallel to the base from the restraining segments
- two pressure members (34) attached to the channel, wherein each pressure member is capable of applying pressure on a portion of the perimeter of the stack, i.e., a stack having a dimension wherein a portion of the perimeter would lie on top of the two pressure members

Regarding claim 33, AAPA discloses the apparatus as a unitary structure.

6. Claims 1-4, 16-19, 28-30, 32 and 33 have been rejected under 35 U.S.C. 102(b) as being anticipated by Cave, 2211879.

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Regarding claims 1-4, 16, 17, 19, 28-30, and 32, Cave discloses an apparatus capable of clamping together a stack comprising

- a base (11) forming a bottom of a channel, the channel allowing for the insertion and removal of a stack
- first and second restraining segments (12, 12a, 13, 13a) attached to the base, wherein each segment includes a protrusion (12a, 13a) extending parallel to the base from the restraining segments
- two pressure members (20, 21) attached to the channel, wherein each pressure member is applies pressure on a portion of the perimeter of the stack (34)

Regarding claim 18, Cave discloses a pressure means (20, 21) attached to the base (11) via the member 14 and 15.

Regarding claim 33, AAPA discloses the apparatus as a unitary structure.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 8-11 have been rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA or Cave.

AAPA discloses a unitary clip (figure 4), but fails to disclose the leaf springs as an integrally molded part of the clip.

The examiner takes official notice that it is old and well known to make two parts of a device into a single injection molded clip in order to save on the manufacturing costs of the device, i.e., it is more expensive to produce the leaf springs separate from the clip body and then assemble the springs to the clip body.

It would have been an obvious design choice to make AAPA's clip as a single integrally molded device in order to save on the manufacturing costs of the device.

Cave discloses a unitary clip, as discussed above, but fails to disclose the pressure members as an integrally molded part of the clip.

The examiner takes official notice that it is old and well known to make two parts of a device into a single injection molded clip in order to save on the manufacturing costs of the device, i.e., it is more expensive to produce the leaf springs separate from the clip body and then assemble the springs to the clip body.


It would have been an obvious design choice to make Cave's clip as a single integrally molded device in order to save on the manufacturing costs of the device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack W. Lavinder whose telephone number is 571-272-7119. The examiner can normally be reached on Mon-Friday, 9-4:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jack W. Lavinder
Primary Examiner
Art Unit 3677

11/19/05